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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------------------------------------------|-------------|----------------------|----------------------------|------------------|
| 10/614,185 | 07/08/2003 | Peter Martens | 85147-102 RWD | 7101 |
| 23529 | 7590 | 01/04/2005 | EXAMINER | |
| ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA | | | MORRISON, NASCHICA SANDERS | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3632 | |

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,185

Applicant(s)

MARTENS, PETER

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 3 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the second Office Action for serial number 10/614,185, Tool Support Kit, filed on July 8, 2003. Claims 1-8 and 10-20 are pending.

Allowable Subject Matter

The indicated allowability of claims 9-11 is withdrawn in view of the newly discovered references to Ulshafter, Welsh and Chubb. Rejections based on the newly cited references follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 5, 8, 10, 11 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication 2004/0124036 to Ulshafter, Jr. (Ulshafter). Regarding claims 1, 2, 4, 5, 10 and 17, Ulshafter teaches a kit of parts (20) comprising: a pair of spaced uprights (28, 29; 31, 32) each including a clamping member (26, 27) arranged to selectively clamp a side of a beam (21); a pair of supporting members (33, 34) each including a mounting channel (see Fig. 10 generally) capable of receiving a conventional size wooden construction beam and a supporting

surface; wherein each clamping member (portion 92) is movable between a clamping position and a released position and is arranged and adapted to receive a conventional size wooden construction beam. Regarding claims 8 and 11, in the alternative Ulshafer teaches a pair of supporting members (82) including a mounting portion (vertical portion) and supporting surface (horizontal portion) comprising a flat plate including mounting apertures therein.

Claims 1, 2, 4-8, 10-12 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,745,804 to Welsh et al (Welsh). Welsh teaches a kit of parts (Fig. 1) comprising: a pair of spaced uprights (30) each including a clamping member (32, 32S) arranged to selectively clamp a side of a beam (11), a base (31R) and a post (31) extending upwardly from the base; a pair of supporting members (20) each including a mounting channel (see Fig. 5 generally) capable of receiving a conventional size wooden construction beam and a supporting surface (21) comprising a flat plate with mounting apertures (22); wherein each clamping member (32S) is movable between a clamping position and a released position and is arranged and adapted to receive a conventional size wooden construction beam; and a material support member (70, 80) supported on the uprights above the clamping members and being adjustable in height (members 81 and 82 are height adjustable).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 5, 10, 12-14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,070,696 to Chubb et al. (Chubb) in view of Ulshafter. Regarding claims 1, 4, 5, 10, 12-14 and 17, Chubb discloses a kit of parts (120) comprising: a conventional size, wooden beam (118) and a pair of spaced uprights (38a) each including a clamping member (90) arranged to selectively clamp a side of the beam (118), a base (72) and a post (66) extending upwardly from the base, wherein each clamping member is adjustably supported on an upright. Chubb does not teach the kit including a pair of supporting members. Ulshafter teaches the kit as applied to claims 1, 2, 4, 5, 8, 10, 11 and 17 above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the kit of Chubb to include a pair of supporting members (33, 34) as taught by Ulshafter that for mounting on the beam because one would have been motivated to provide a means for supporting a portable power tool as taught by Ulshafter (lines 8-11 of paragraph 0029). Regarding claims 18 and 19, the method steps recited therein are deemed to be obvious by the functions of the structure of the apparatus as applied above.

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Ulshafter, as applied to claims 1, 4, 5, 10, 12-14 and 17-19, and further in view of U.S. Patent 1,439,068 to Collier. Regarding claims 2 and 15, Chubb in view of Ulshafter discloses the kit of parts as applied above but does not expressly teach the clamping members being movable between a clamping position and a released position. Collier teaches a support including clamping members (E, e) for supporting a beam (F), wherein the clamping members (e) are pivotally movable

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between a clamping position and a released position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the clamping members of Chubb to be movable between a clamping position and released position because one would have been motivated to permit removal and replacement of the beam within the clamping members.

Claims 8, 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Ulshafter, as applied to claims 1, 4, 5, 10, 12-14 and 17-19, and further in view of U.S. Patent 5,836,365 to Derecktor. Regarding claims 8 and 11, Chubb in view of Ulshafter discloses the kit of parts as applied above but does not teach the supporting surface of the supporting members being a flat plate with mounting apertures. Derecktor teaches tool-supporting members (28) comprising a mounting channel (Fig. 12 generally) and a flat plate (120) including mounting apertures (128). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the supporting members of Ulshafter to comprise a flat plate with mounting apertures because one would have been motivated to provide a supporting member capable of supporting various tools such as a table saw as taught by Derecktor (col. 7, lines 58-65). Regarding claim 20, the method steps recited therein are deemed to be obvious by the functions of the structure of the apparatus as applied above.

Allowable Subject Matter

Claims 3 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 10/4/04 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 1672502 to Roth; 4031981 to Spencer; 4877109 to Welch et al; 5592981 to Derecktor

The above references disclose supports relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
12/27/04


ANITA KING
PRIMARY EXAMINER